

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

AUG 02 1983

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information you submitted discloses that you were incorporated on [REDACTED], under the [REDACTED] Non-Profit Corporation Act. Your purpose is to be organized exclusively for charitable, educational, and scientific purposes. Also for the contribution of money to the maintenance of educational counseling, reference and study facilities to be used by members of [REDACTED], and to provide scholarships for deserving members and pledges of [REDACTED].

Your activities are to contribute to the maintenance of the study facilities of [REDACTED] and to provide scholarships to the members of [REDACTED]. You indicate that your organization will have no memberships. Your financial support will be from contributions of the alumni and friends of [REDACTED]. These funds will then be used for the scholarships and the maintenance of the Fraternity house. You indicate the awards (scholarships) will be given by the Board of Directors based on (1) recommendations from [REDACTED] chapter, (2) personal interviews, (3) review of transcripts, (4) and financial data. You indicate that no restrictions will be imposed based upon race or relationship with a Board member. You further indicate that it would be possible that a Board members' son could receive an award and you also indicate that you will not require follow-up procedures on the scholarships. You also indicate that the organization will contribute funds to the [REDACTED] chapter for maintenance of the Chapter House in the following categories: rent, utilities, supplies, telephone, pest control, repairs, maintenance and other miscellaneous items. The foundation intends to pay [REDACTED]% of the amounts stated above for the use of the educational facilities on the Chapter House. You indicate [REDACTED]% use of

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
		[REDACTED]					

[REDACTED]

the reference room for educational activities which can be used by in-house members and out-of-house members and the campus community. You indicate [REDACTED] use of the conference and counseling rooms for educational activity. This area can be used by groups of [REDACTED] people whether they are members of the fraternity or of the campus community. Indication was made of [REDACTED] use for educational activities of the dining & study & assembly room. This area is open both to members of the fraternity and members of any other campus community organization. You indicate [REDACTED] use of individual, live-in study rooms as being used for academic use. These areas are also areas where members of the fraternity live while in the house. You indicate that your organization is a private foundation and you have included all of the Section 508(e) provisions required of a private foundation.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(3) Corporations, *** fund, or foundation, organized and operated exclusively for religious, charitable, scientific, *** literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involved the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)); and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

"(b)(1)(i) An organization is organized exclusively for one or more exempt purposes only if its articles of organization (referred to in this section as its "articles") as defined in subparagraph (2) of this paragraph:

- (a) Limit the purposes of such organization to one or more exempt purposes; and**
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes."**

"(c)(1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than insubstantial part of its activities is not in furtherance of an exempt purpose."

Revenue Ruling 64-118, 1964-1 (Part 1), C.B. 182, holds that an organization does not qualify for exemption under Section 501(c)(3) as an educational organization where its primary activity is to furnish, on a rental basis, a chapter house to a fraternity.

Revenue Ruling 69-573, 1969-2, C.B. 125, describes an organization that built a chapter house with proceeds from contributions from students and alumni. The house serves as a special center for members and has living quarters, study rooms, and a library. This organization was held not to be exempt under IRC 501(c)(3) of the Code.

Section 4945(d)(3) of the Code provides that grants made to individuals for travel, study, or similar purposes will constitute a taxable expenditure unless the requirements of Section 4945(g) of the Code are satisfied.

Section 4945(g)(1) of the Code provides that a scholarship or fellowship grant to be used for study at an educational institution described in Section 170(b)(1)(A)(ii) of the Code will not constitute a taxable expenditure if it is awarded on an objective and nondiscriminatory basis.

[REDACTED]

Section 53.4945-4(b)(4) of the Income Tax Regulations states that the person or group of persons who select recipients of grants should not be in a position to derive a private benefit, directly or indirectly, if certain potential grantees are selected over others.

Section 53.4945-4(c)(11) of the Income Tax Regulations states that the foundation should obtain reports to determine whether the grantees have performed the activities that the grants are intended to finance.

Your organizing activities and purposes are to provide money for the maintenance of an area, of the Chapter fraternity house, for the members of [REDACTED]. Although this house will be used for some educational activities of the members of the fraternity indications are that most all of the area can be used by people from the Campus community. And with your breakdowns, that you provided, the fact that only a small percentage of the total area of each individual room is used for educational activities indicates that the whole area is not used exclusively for educational purposes. The other organizing activity and purpose is the granting of Scholarships to members of [REDACTED]. According to the Internal Revenue Code of 1954, these Scholarships have to be made on a nondiscriminatory basis. The fact that you indicate that a Board members' son could receive a scholarship indicates the possibility of inurement to a Board member, as well as a scholarship which is not being granted on a nondiscriminatory basis. Also, you indicate that you will not impose any of the follow-up procedures that are required by the Income Tax Regulations.

Therefore, we conclude that your organization is not organized, or operated as an organization described in Section 501(c)(3) of the Code.

It follows, therefore, that contributions to you are not deductible by donors under Section 170 of the Code.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

[REDACTED]

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely yours,

[REDACTED]
District Director

Enclosures
Publication 892
Form 6012

cc: [REDACTED]